

RECEIVED  
CENTRAL FAX CENTER  
MAR 15 2005

DAIMLERCHRYSLER

DaimlerChrysler  
Intellectual Capital Corporation

# Fax

**To:** Examiner Hilary L. Gutman

**From:** Gordon K. Harris, Reg. No. 28,615

**Fax:**  
(703) 872-9306

**Pages:** 8 (6 + 2 pgs Appendix)

**Phone:** (703) 305-0496

**Date:** March 15, 2005

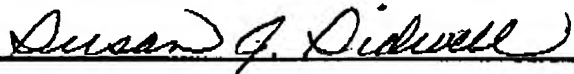
Group Art Unit: 3612

**Re:** Application No. 10/646,188

See the attached: Transmittal Letter and resubmitted APPEAL BRIEF.

*I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on March 15, 2005.*

Susan J. Sidwell



This communication contains confidential information which is intended only for the use of the addressee. It may also contain information that is protected by the Attorney-Client Privilege or the Work Product Doctrine. Copying or distribution of this communication by persons other than the addressee is prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address below by United States mail. Thank you.

RECEIVED  
CENTRAL TAX CENTER  
MAR 15 2005

Attorney Docket No. 706441US5

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 3612 )  
Examiner: Hilary L. Gutman )  
Serial No. 10/646,188 )  
Applicants: Rhodes et al. )  
Filed: August 22, 2003 )  
For: STADIUM STYLE MOTOR )  
VEHICLE SEAT )  
Attorney Docket No.: 706441US5 )

TRANSMITTAL  
LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed herewith is a resubmitted Appeal Brief pursuant to the Notification of  
Non-Compliant Appeal Brief mailed February 16, 2005.

Respectfully submitted,

Louis A. Rhodes, et al.

Dated: March 15, 2005

BY: 

Gordon K. Harris, Reg. No. 28,615  
Attorneys for Applicants

Ralph E. Smith  
DaimlerChrysler Intellectual Capital Corporation  
CIMS 483-02-19  
800 Chrysler Drive East  
Auburn Hills, Michigan 48326-2757  
Phone: (248) 944-6519

RECEIVED  
CENTRAL TAX CENTER  
MAR 15 2005

Attorney Docket No. 706441US5

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Group Art Unit: 3612 )  
Examiner: Hilary L. Gutman )  
Serial No. 10/646,188 )  
Applicants: Rhodes et al. )  
Filed: August 22, 2003 )  
For: **STADIUM STYLE MOTOR** )  
**VEHICLE SEAT** )  
Attorney Docket No.: 706441US5 )

**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is an appeal from the Final Rejection of Claims 1 and 3—9 under 35 U.S.C. §102 (b) in the Office Action mailed July 27, 2004.

**I. REAL PARTY IN INTEREST**

The real party in interest is DaimlerChrysler Corporation, a corporation organized and existing under the laws of the State of Delaware U.S.A., and having a principal place of business in Auburn Hills, Michigan, U.S.A.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences which would directly affect or be directly affected by or have a bearing on the Board's decision in the instant appeal.

### **III. STATUS OF THE CLAIMS**

Claims 1 and 3—9 are pending in this application. All pending claims have been rejected and are the subject of this Appeal. A copy of Claims 1 and 3—9 is set forth in the Appendix hereto.

### **IV. STATUS OF AMENDMENTS**

In response to an initial Office Action of April 13, 2004, Applicants filed an Amendment and Response Under 37 C.F.R. § 111 amending Claim 1 and canceling Claims 2 and 10—13.

In response to the Final Office Action of July 27, 2004, Applicants filed a Response After Final Rejection on October 5, 2004, with no further amendment to the pending claims. A Notice of Appeal was filed November 19, 2004.

### **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Applicants claim in independent Claim 1, a seat assembly (10—Fig. 1) for a motor vehicle having a floor (20—Fig. 1), the seat assembly (10) comprising a tub (32—Fig. 1) disposed at least partially in the floor (20), at least one rear leg (16—Fig. 1) non-releasably secured to the floor (20) of the vehicle, the at least one rear leg (16) being pivotable (about anchor point 18—Fig. 1) to stow the seat assembly (10) in the tub (32); a seat back (12—Fig. 1) fixedly mounted on the at least one rear leg (16), and at least one front leg (24—Fig. 1) releasably secured (via notch 26 engaging pin 28—Fig. 1) to the floor (20) of the vehicle.

In independent Claim 8, Applicants claim a seat assembly (10) for a motor vehicle having a tub (32) disposed at least partially in a floor (20) of the vehicle, the seat assembly (10) comprising at least one rear leg (16) non-releasably secured to the floor (20) of the vehicle, the at least one rear leg (16) being pivotable (about anchor point 18) to stow the seat assembly (10) in the tub (32), and at least one front leg (24) releasably secured (via notch 26 engaging pin 28) to the floor (20) of the vehicle.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Presented for review is the rejection of Claims 1 and 3—9 under 35 U.S.C. §102(b) as being anticipated by Cannera et al. (U.S. Patent No. 5,195,795).

## **VII. GROUPING OF THE CLAIMS**

Claims 1 and 3—9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Cannera et al., U.S. Patent No. 5,195,795. These claims stand or fall together.

## **VIII. ARGUMENT**

### **The Rejection**

Claims 1 and 3—9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cannera et al. Applicants respectfully traverse the Examiner's rejection of these claims. As discussed below, the Examiner has failed to state a prima facie case of anticipation under 35 U.S.C. § 102(b), because the cited Cannera et al. reference fails to set forth each and every limitation of the claimed invention, either explicitly or inherently. General Electric Co. v. Nintendo Co., 50 U.S.P.Q.2d 1910, 1915 (Fed. Cir. 1989).

The Cannera et al. reference fails to disclose "at least one front leg releasably secured to the floor of the vehicle," as called for in Applicants' independent Claims 1 and 8. Cannera's front leg 20 is clearly shown coupled to a floor of the vehicle at all times—either in a deployed seat position as shown in Fig. 2 or in a completely stowed seat position as shown in Fig. 4. Cannera makes no suggestion of making leg 20 releasable from the vehicle floor, nor does Cannera suggest that pin 88 (Fig. 5) is removable from yoke 84. The Examiner's assertion in the Final Rejection that "even if

those members were permanently attached, that with enough force one could indeed detach the front leg from the floor" would render the terms "releasable" and "nonreleasable" as meaning the same thing. Accordingly, Applicants are entitled to a grant of a patent. General Electric Co., supra at 1915.

#### IX. SUMMARY

The rejection of Claims 1 and 3—9 under 35 U.S.C. §102(b) is in error. There is no disclosure in the art of record of Applicants' claimed invention. The Examiner has failed to state a *prima facie* case under 35 U.S.C. §102(b) and, accordingly, Applicants are entitled to a reversal of the Final Rejection of Claims 1 and 3—9 and the grant of a patent over the instant application.

Respectfully submitted,

Louis A. Rhodes, et al.

Dated: March 15, 2005

BY: 

Gordon K. Harris, Reg. No. 28,615  
Attorneys for Applicants

Ralph E. Smith  
DaimlerChrysler Intellectual Capital Corporation  
CIMS 483-02-19  
800 Chrysler Drive East  
Auburn Hills, Michigan 48326-2757  
Phone: (248) 944-6519

**APPENDIX****Claims 1 and 3—9**

1. A seat assembly for a motor vehicle having a floor, the seat assembly comprising:

a tub disposed at least partially in the floor;

at least one rear leg non-releasably secured to the floor of the vehicle, the at least one rear leg being pivotable to stow the seat assembly in the tub;

a seatback fixedly mounted on the at least one rear leg; and at least one front leg releasably secured to the floor of the vehicle.

3. The seat assembly of claim 2 wherein the at least one front leg is positioned proximate a seat cushion of the seat assembly when the seat assembly is stowed in the tub.

4. The seat assembly of claim 1 wherein the seatback is rigidly mounted on the at least one rear leg.

5. The seat assembly of claim 1 wherein the seatback presents a load floor when the seat assembly is stowed in the tub.

6. The seat assembly of claim 1 wherein the load floor is generally even with the floor of the vehicle.

7. The seat assembly of claim 1 wherein the tub is disposed generally forward of the seat assembly in a use position.

8. A seat assembly for a motor vehicle having a tub disposed at least partially in a floor of the vehicle, the seat assembly comprising:

at least one rear leg non-releasably secured to the floor of the vehicle, the at least one rear leg being pivotable to stow the seat assembly in the tub; and at least one front leg releasably secured to the floor of the vehicle.

9. The seat assembly of claim 8 wherein the at least one front leg is positioned proximate a seat cushion of the seat assembly when the seat assembly is stowed in the tub.